

Office of the Coconino County Attorney



VICTIM RIGHTS REFERENCE GUIDE (ADULT)



COCONINO COUNTY ARIZONA

OFFICE OF THE COUNTY ATTORNEY

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To the Reader:

You have received this reference guide because you have been identified as a victim of a crime. The purpose of this guide is to assist you in understanding the criminal justice system. An unfortunate fact related to the growth of our community is the large number of cases filed every year in this system. As a result, police and prosecutors are not able to have the timely one-on-one contact necessary to explain to each victim his or her rights under the law. Consequently, many victims feel further violated by laws and rules which have not been explained to them.

This guide is designed to explain your rights in the criminal justice system. It is not meant to replace human and personal contact. If you have any questions after reviewing this guide, I encourage you to contact either the Deputy County Attorney prosecuting this case or the Victim Notification Secretary at (928) 679-8200. Additional services are available through Victim/Witness Services for Coconino County. Their phone number is (928) 779-6163. Victim/Witness Services works with our office to ensure your needs are met. For additional information, visit their website at: www.victimwitnessflagstaff.org

Hopefully, the information in this guide will help you to better understand the criminal process. Working together, I am confident that those who have committed criminal acts against you can be prosecuted without causing you any additional hardship.

Sincerely,

DAVID W. ROZEMA
Coconino County Attorney

ARIZONA CONSTITUTION

Article II

Victims' Bill of Rights

Section 2.1

- (A) To preserve and protect victims' rights to justice and due process, a victim of crime has a right:
1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
 2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.
 3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.
 4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.
 5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.
 6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.
 7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.
 8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.
 9. To be heard at any proceeding when any post-conviction release from confinement is being considered.
 10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.
 11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.
 12. To be informed of victims' constitutional rights.
- (B) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.
- (C) "Victim" means a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's immediate family or other lawful representative, except if the person is in custody for an offense or is the accused.
- (D) The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.
- (E) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims.

RIGHT TO LEAVE WORK

If your employer has fifty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of that employer, then you have certain rights:

- Not to be dismissed from your job because you are exercising your rights as a victim of a crime.
- You will not lose seniority or precedence while absent from employment.
- An employer or an employer's agent cannot refuse to hire or employ, to bar or to discharge from employment or to discriminate against an individual in compensation or other terms, conditions or privileges of employment because you leave work to exercise your victim rights.
- Your employer must keep records regarding your leave confidential.

Before you leave work you must provide your employer with a copy of the form or other information the law enforcement agency provides to you. If applicable, give your employer a copy of the notice of each scheduled proceeding that is provided to you by any of the prosecuting representatives required to give you notice. Your employer is not required to compensate you for your time off. You may elect to or your employer may require you to use your accrued paid vacation, personal leave or sick leave. An employer may limit the leave provided under this section if your leave creates an undue hardship to your employer's business. *Undue hardship* means "significant difficulty and expense to a business and includes the consideration of the size of the employer's business and the employer's critical need of the employee."

STEPS IN THE CRIMINAL JUSTICE PROCESS

Your case will probably go through the stages of the criminal justice system described below. Each case is different, however, so if you have questions about a specific stage, ask the prosecutor or your victim advocate.

Initial Appearance: Held within 24 hours of arrest. The judge may appoint a lawyer for the defendant if he/she cannot afford one and decide if the defendant will be released on bond or remain in custody pending trial. Most defendants are released and ordered to have no contact with the victim(s). Any contact by the defendant should be reported immediately to the detective, prosecutor or victim advocate. The victim need not appear at the initial appearance.

Grand Jury, Preliminary Hearing: The stage at which a hearing is held to determine if there is enough evidence to formally charge a crime. This hearing is held either before a judge (preliminary hearing) where the victim may need to testify; or, more often, before a group of citizens (grand jury) where the victims generally need not appear. This hearing may occur up to 20 days after the initial appearance.

Arraignment: The defendant is informed of the formal charges and enters a plea, usually "not guilty." A pre-trial conference will be scheduled for approximately 30 days from the arraignment. A trial date will be set at the arraignment, usually 60-90 days from the arraignment. The victim need not appear at the arraignment.

Pre-trial Conference: The defendant's lawyer and the prosecutor meet to discuss the case and possible plea offers by the State. Neither the victim nor the defendant need attend the pre-trial conference.

Case Management Conference: All parties, the judge, the prosecutor and the defendant's attorney, meet to discuss the case and possible plea offers by the State. The defendant must be present for this proceeding; the victim has a right to be present at the case management conference, but is not required to attend.

Change of Plea: The defendant's lawyer and the prosecutor may reach a "plea agreement", whereby the defendant pleads guilty, usually in exchange for a lesser charge or a reduced sentence. If the victim has requested it, he/she will be consulted by the prosecutor before a plea agreement is entered into. The victim has a right to be present at the change of plea hearing, but is not required to attend.

Trial Management Conference: All parties, the judge, the prosecutor and the defendant's attorney, meet to discuss all matters pertaining to the trial. This proceeding usually takes place the day before trial actually begins.

Trial: The victim and other witnesses are subpoenaed (summoned) to testify. The judge will decide whether there is enough evidence to prove the defendant guilty beyond a reasonable doubt. The defendant and the victim each has the right to be present.

Sentencing: If the defendant pleads guilty or is found guilty after a trial, the judge will schedule a sentencing within approximately 30 days. The victim and/or family will be contacted by an Adult Probation Officer for their opinions. They may make a written victim impact statement to the judge describing how the crime affected them, how it continues to affect them, how they feel, and what they think the sentence should be. This statement can be mailed directly to the judge TWO WEEKS prior to sentencing or given to the prosecutor or victim advocate prior to the sentencing.

Delays: At every stage of the process, there may be (and very often are) postponements, called continuances, for legal or other reasons. Ask the prosecutor what to expect in your case.

CIVIL LAWSUITS

If you are a victim of a crime, you may file a civil lawsuit against the offender or any other entity you believe to be at fault for your victimization. You may file a civil lawsuit yourself or you may seek the assistance of an attorney. If a defendant enters a guilty plea or is convicted at trial, this may be admissible in a civil action. **The Coconino County Attorney's office cannot assist you with a civil lawsuit.**

CONCLUSION

We are sorry that you or your family have become crime victims. We hope this guide will help you better understand the criminal justice system and your rights.

Please feel free to call your Victim Advocate or the prosecutor whenever questions arise.